

Memorandum

TO: District of Columbia Zoning Commission

FROM: *JL for* Jennifer Steingasser, Deputy Director Historic Preservation Development Review

DATE: September 15, 2015

SUBJECT: FMBZA 19091 –Application of the Embassy of the Kyrgyz Republic, pursuant to 11DCMR § 1002 and §206 of the Foreign Missions Act

I. RECOMMENDATION

The Office of Planning recommends that the FMBZA not disapprove:

- the requested variance relief from the lot occupancy requirement of § 403.2 to permit a rear deck installation at the Kyrgyz Embassy in the D/R-3 District, noted in the review of §1001.5 and Section VI of this report (60% maximum permitted; 73.4% proposed);

subject to recommendations of the Commission of Fine Arts and Historic Preservation.

II. LOCATION AND SITE DESCRIPTION

Address	2360 Massachusetts Avenue, N.W.
Legal Description	Square 2507, Lot 50
Ward	2, ANC 2D
Lot Characteristics	Flat, irregularly-shaped, landscaped and partially wooded lots
Zoning	The subject property and properties within the square are in a Residential (R-3) District within the Diplomatic (D), overlay district.
Existing Development	The property is developed with a main three-story row structure with a rear yard, which abuts the wooded area off Rock Creek and Potomac Parkway. A garage and surface parking area are located along the Massachusetts Avenue frontage. The property is nonconforming due to its existing lot occupancy at 59.6%. The embassy/chancery use is permitted in this zone.
Adjacent Properties	Properties surrounding the subject property include residential uses and many other foreign mission uses, including embassies and chanceries and related facilities. All structures within this square abut lands surrounding the Rock Creek Parkway and front on Massachusetts Avenue. The property is within walking distance of the Dupont Circle Metro Station.

Surrounding Neighborhood Character	The surrounding neighborhood is a mix of single-family row and detached homes and foreign missions. Its character is defined by stately residences mixed in with diplomatic and institutional development.
Historic District	The property is located in the Commission of Fine Arts jurisdiction area, and within the Sheridan-Kalorama Historic District.

III. APPLICATION-IN-BRIEF

The Embassy proposes the installation of a deck (14 ft. x 25ft.) and patio extension at the rear of the property.

IV. REGULATORY REQUIREMENTS

The property falls within a D/R-3 District. Section § 201.1 (m) of the current Zoning Regulations allows chancery uses in existence on September 22, 1978. The chancery of the Kyrgyz Republic was not disapproved by the FMBZA per Order 17543, on January 24, 2007. Sections 350.1 and 1001.1 allow expansion of chanceries in the R-1-A subject to Foreign Missions Board of Zoning Adjustment (FMBZA) disapproval. As part of its review, the FMBZA is required to evaluate the application within the six factors set forth in the Foreign Missions Act (FMA).

Section 3103.4 of the Regulations provides for an area variance request in order to exceed the maximum lot occupancy permitted within the R-3 District, if the application of the regulation would result in a peculiar and exceptional practical difficulty to the owner of the property (§3103.7).

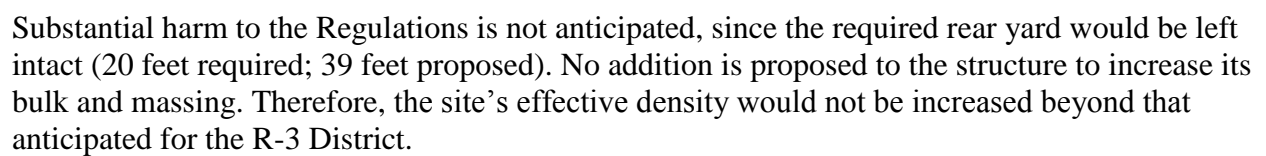
V. OFFICE OF PLANNING ANALYSIS

Variance Relief from § 403.2

i. Exceptional Situation Resulting in a Practical Difficulty

The property abuts Rock Creek Park, with variable topography which extends to the rear of the Embassy's property, as shown in the map and photo below. As a result, the rear yard is not easily accessible by the Embassy's staff.

The property's topography at the rear creates a practical difficulty for the applicant to provide overflow space for visitors when events may be hosted for more than 35 guests, which is the maximum number of occupants permitted on the first floor (Per Order 17543, Page 3). Hosting of events for visitors and other dignitaries are typical of a chancery's function. The proposed deck and patio is intended to mitigate the practical difficulty in utilizing the rear yard. The embassy informed OP that a retaining wall was recently installed to control erosion, which was occurring at the rear.



Compliance with § 1001

Expansion of an existing chancery use in a Diplomatic Overlay District is subject to the following criteria:

1001.1 The Board shall consider the international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the nation's capital.

In a letter to the Director of the Office of Zoning dated July 29, 2015, (Exhibit 29) the U.S Department of State's Foreign Mission Office supported the submission of this application to the Board. OP anticipates no special security requirements relating to the deck in this case.

1001.2 The Board shall consider historic preservation, as determined by the Board in carrying out this section.

The property is located within the Sheridan-Kalorama Historic District and within the jurisdiction of the Commission of Fine Arts. The Commission of Fine Arts will review the proposal at their September 21, 2015 meeting.

1001.3 To ensure compatibility with historic landmarks and historic districts, substantial compliance with District and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.

The Historic Preservation Office (HPO) indicated that comments on the proposed deck would be forthcoming subsequent to CFA's review.

1001.4 The Board shall consider the adequacy of off-street or other parking, and the extent to which the area will be served by public transportation to reduce parking requirements, subject to any special security requirements that may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

This is not applicable, in this instance as no alteration would be made to affect the existing on-site parking.

1001.3 The Board shall consider the extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.

The Embassy was not disapproved by the Board under BZA #17543, when this criterion would have been applicable. The deck's installation would not affect this provision.

1001.5 The Board shall consider the municipal interest, as determined by the Mayor.

Commission of Fine Arts (CFA)

CFA notified the applicant via email on August 24, 2015 that the submission for CFA review should be made at the Department of Consumer and Regulatory Affairs Permit

Center no later than September 3, 2015. The CFA would meet on September 21, 2015 to discuss this case.

Historic Preservation

Historic Preservation's review would be subject to the resolution of CFA's concerns, if any. Should CFA deem the deck and patio extension appropriate and recommend approval, then the HP Office would proceed with its review and recommendation.

The Director of Planning, on behalf of the Mayor, reviewed the request of variance relief from Section 403.2 as noted in Section V of this report.

1001.6 The Board shall consider the federal interest, as determined by the Secretary of State.

The Department of State's letter certified that the Embassy complied with Section 205 of the Foreign Missions Act (FMA) and permitted the Embassy to submit its application to the BZA.

VI. COMMENTS OF OTHER DISTRICT AGENCIES

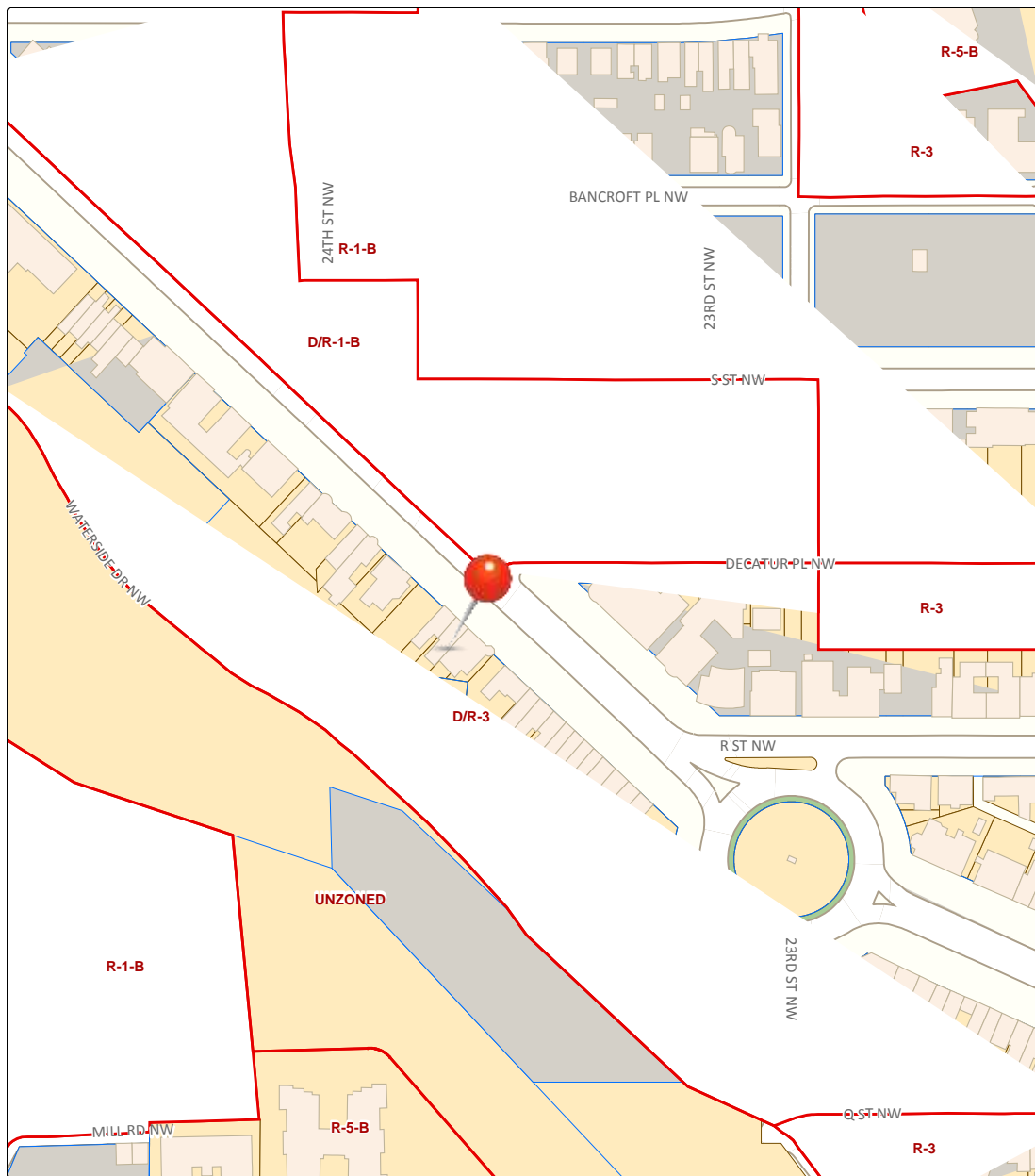
The District Department of Transportation's (DDOT) report is submitted under separate cover as Exhibit 31. DDOT expressed no objection to the approval of the requested variance.

The Commission of Fine Arts meets on September 21, 2015 to consider this application. Thereafter, comments will be submitted to the record.

VII. COMMUNITY COMMENTS

The Embassy's representative stated that the Embassy would meet with the ANC on September 8, 2015 at the ANC 2D regularly scheduled meeting. The ANC's report will be submitted under separate cover. No other community comments have been submitted to the record at the time of writing of this report.

Attachment: I. Location and Zoning Map



Location and Zoning Map